

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WING KAI TSE,

Plaintiff,

v.

UNITED FOOD AND
COMMERCIAL WORKERS UNION,
LOCAL 367,

Defendant.

CASE NO. C13-746RAJ

AMENDED* ORDER

This matter comes before the court on pro se plaintiff Wing Kai Tse's motion for additional time to file a notice of appeal. Dkt. # 11.

A notice of appeal must be filed within 30 days after entry of judgment. Fed. R. App. Proc. 4(a)(1)(A). Here, judgment was entered on February 19, 2014. Thus, the notice of appeal should have been filed by March 24, 2014. Instead, plaintiff filed a motion for extension of time to file the notice of appeal. This court may grant a motion

* This order amends the court's April 3, 2014 order to include the three-day addition to the court's calculation when service is made by mail. *See* Fed. R. Civ. Proc. 6(d). No other changes have been made. The court DENIES the remainder of plaintiff's motion to modify the order and DIRECTS the clerk to terminate the motion. Dkt. # 14.

1 for extension of time to file a notice of appeal if the party moves “no later than 30 days
2 after the time prescribed by this Rule 4(a) expires” where “that party shows excusable
3 neglect or good cause.” Fed. R. App. Proc. 4(a)(5)(A)(i) & (ii). No extension may
4 exceed 30 days after the prescribed time or 14 days after the date when the order granting
5 the motion is entered, whichever is later. Fed. R. App. Proc. 4(a)(5)(C).

6 Plaintiff argues that the court’s dismissal of the section 1981 claim “is absolutely
7 erroneous and unfair.” Dkt. # 11 at 1. He also argues that his former coworker, Siu Man
8 Wu, was given a chance to rewrite his response to defendant’s nearly identical motion to
9 dismiss in Case Number C13-748RAJ. *Id.* The court denied Mr. Wu’s motion to file a
10 67-page opposition that far exceeded the page-limits in the Local Civil Rules, and
11 allowed him to re-file a 30-page opposition. Case No. C13-748RAJ, Dkt. # 19. In this
12 case, plaintiff did not file a motion to file an overlength brief, but the court nevertheless
13 considered the entirety of Mr. Tse’s 28 page opposition. Dkt. # 7. Regardless, what is
14 happening in Mr. Wu’s case is irrelevant to Mr. Tse’s ability to demonstrate good cause
15 or excusable neglect in this case for extending the time to file a notice of appeal.

16 Nevertheless, Mr. Tse is proceeding *pro se* and he has indicated that he requires
17 assistance from friends because of his lack of fluency in the English language. Given the
18 language barrier and Mr. Tse’s *pro se* status, the court believes he has demonstrated good
19 cause for an extension of time to file the notice of appeal, especially where the notice of
20 appeal is a simple form, not a full analysis of all of his claims.

21 For all the foregoing reasons, the court GRANTS plaintiff’s motion to extend the
22 time to file a notice of appeal. The court entered judgment on February 19, 2014. The
23 notice of appeal should have been filed no later than March 24, 2014. Accordingly, Mr.
24 Tse must file a notice of appeal no later than 30 days after this prescribed time, which is
25 April 23, 2014. The court does not have discretion to grant an extension beyond this
26 date.

1 Dated this 15th day of April, 2014.

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4 The Honorable Richard A. Jones
5 United States District Judge
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